

## **TEMPORARY PROCEDURES**

### **FOR ELECTRIC ENERGY AND NATURAL GAS EXPORT AND IMPORT OPERATION LICENSING IN THE ROA ENERGY SECTOR**

The present Procedures regulate the process of filing and reviewing Applications for Licenses, the terms of License issuance (rejection), extension of the License activity terms for implementation of export and import activities in the Energy Sector.

#### **1. BASIC TERMS USED IN THESE PROCEDURES**

The terms used in this Contract imply the following:

<b>Entity</b>	- a legal entity;
<b>Energy Sector</b>	- a system of the economic entities involved with the purpose of providing public services in generation of electricity and thermal energy (including combined generation of electric and thermal power), transmission (transportation) and distribution of electricity, thermal energy and natural gas; system operator services in electric energy and natural gas sectors, construction and rehabilitation of new generating capacities in electric and thermal energy sectors, construction of transmission (transportation) or distribution networks in electric, thermal energy or natural gas sectors; as well as the property required for the implementation of the above activities and the structures providing services to the power market;
<b>Commission</b>	- the Energy Regulatory Commission of the Republic of Armenia.
<b>License</b>	- an official document issued by the RoA Energy Regulatory Commission, in compliance with the RoA Energy Law, verifying the Entity's right and

obligation to engage in certain activities and rendering services in the power sector;

<b>License Application</b>	- a package of documents submitted to the Commission in conformance with these Procedures in order to obtain a License, or extend the License activity terms.
<b>Applicant</b>	- a legal entity who has applied to the Commission in accordance with these Procedures, in order to acquire or extend a License.
<b>File</b>	- an individual folder containing documents that serve a basis for issuing a License as specified in these Procedures, as well as information about violations discovered during the implementation of the licensed activity, and their rectification, tariff justification documents, financial reports and other relevant papers.
<b>Licensee</b>	- an entity that has been issued a License, in conformance with the RoA Energy Law and the present Procedures;
<b>Licensed Operation</b>	- activities subject to licensing in conformance with the RoA Energy Law;
<b>Market Rules</b>	- a founding document corroborated by the Commission, which regulates interrelations between the licensees implementing their activities in the electricity sector, main rules and indicators related to the system reliability and safety, as well as the necessary mechanisms for ensuring their smooth operation, as well as smooth operation of the market;
<b>Resolution</b>	- a legal act adopted by the Commission in accordance with the authorities given by the RoA Energy Law;

## **2. GENERAL PROVISIONS**

2.1 The license shall be issued to the Entity, for implementing the following types of activities:

- a) natural gas import;
- b) natural gas export;
- c) electric energy (capacity) import;
- d) electric energy (capacity) export.

- 2.2 The Commission sets the electric energy (capacity) and natural gas import highest tariffs. Rates for the exported electric energy (capacity) are not regulated.
- 2.3 Electric energy export license shall be issued only in case of the RoA internal market saturation, when electric energy export does not contradict to the internal market consumers' interests.
- 2.4 License operation terms and export locality shall be established by the Resolution of the Commission, and endorsed in the License.
- 2.5 For electric energy export and import, as well as for receiving a natural gas import License, the Commission requires financial guarantees, according to Article 26 of the RoA "Energy Law", as well as Market rules, and the present Procedure /Attachment 5/.
- 2.6 Entities possessing the right to implement activity types, subject to licensing, can carry out their operations from the moment of effective period of the License, and within the effective period of the License.
- 2.7 A License cannot be given for use to other entities, cannot be alienated, or pledged as collateral unless otherwise provided by Law.
- 2.8 License effectiveness does not apply to other Entities implementing joint activities with the Licensee (including joint activities on contractual basis), as well as to entities founded, or operating with participation of the Licensee, or acting Entities.
- 2.9 In order to obtain a License, to extend a License or in the event of losing a License, the Licensee will have to pay a state duty in procedures and amounts set forth in the RoA Law on State Duty. The document certifying the payment of the state duty shall be presented to the Commission along with the application to obtain a License, to extend a License or, in the event of the loss of a License, to obtain a new License.
- 10. Without the existence of the License, implementation of any type of activities stated in Item 2.1 of this Procedure will create responsibility envisaged by the Law.

### **3. APPLICATION FOR LICENSE, ITS REVIEW AND DECISIONMAKING**

- 3.1. To get a License, the Entity has to provide the Commission with 2 copies of the relevant Application, in accordance with the requirements set by Appendices NN2-5 of the present Procedure.
- 3.2. The Application for License must comply with the requirements provided by the RoA Legislation, the present Procedures and other normative documents.
- 3.3. The Commission may also require other information and documentation from the Applicant by notifying the Applicant in writing, and shall not include the time spent on submission in the time period mentioned in item 3.8. herein.
- 3.4. In accordance with the RoA Legislation, the applicant bears the responsibility for the accuracy of the information forwarded for the Commission's review.
- 3.5. The Applicant will file his application at the Commission. The corresponding Commission division will review the compliance of the application with the requirements of Appendices 2 and 3 herein.
- 3.6. The review of an Application for License may be terminated by the Commission in the following instances:
  - a) when the applicant's basic documents do not comply with the requirements of the RoA Legislation, other legal acts and the present Procedure;
  - b) when the submitted documents contain misrepresentations of real facts;
  - c) when the Applicant, in accordance with the Law, or its By-laws does not have the right to be engaged in the requested activity type, subject to Licensing.
- 3.7. Within 10 days of the receipt of the Application, the Applicant will be sent a notice about the results of the review by the Commission. In the event of negative outcome the Application shall be kept with the Commission, in accordance with the established procedure.
- 3.8. After removal of the identified imperfections, and/or completing the documents, it is filed with the Commission. In such a case the Applicant and the Commission are guided by the terms and requirements set forth in Items 3.5-3.8 of the present Procedure.
- 3.9. In the event of a positive outcome, the Commission shall proceed with the licensing process and will issue an adequate resolution within 60 days after filing the Application.
- 3.10. A License Application may be rejected if:
  - a) the Applicant is recognized insolvent;

- b) the technical indicators stated in the Application do not comply with the current standards of the Republic of Armenia and effective technical rules and procedures;
- c) the issuance of the License to the applicant will restrict the rights of another Licensee;
- d) in the terms set forth in Item 3.3 of the present Procedure the Applicant failed to submit all additional information and documentation required by the Commission, or the results of the additional audit (including audits conducted by independent auditors) which does not allow the commission to proceed with the review of the Application;
- e) the documents submitted by the Applicant are inaccurate or forged, or incomplete, and do not comply with the requirements set forth by the RoA Laws, and other legal acts;
- f) the implementation of the export and import licensed activity may result in the Energy Sector reliability and safety destruction, or in an unjustified increase of sale tariffs for electricity, and/or thermal power, and/or natural gas for consumers across Armenia

3.11. After a close consideration of the Commission's objections to the issuance of a License, the applicant can re-apply for the License, in accordance with the procedures set forth in Article 3.1 herein.

3.12. The Commission's resolution of refusal cannot affect in any way the review of any successive applications by the same Applicant.

#### **4. PROCEDURAL QUESTIONS**

4.1. The Commission keeps registration paperwork for each Licensee and opens an individual File.

4.2. After adopting a positive resolution on issuing a License, within a 5-day period the Commission shall submit the License to the Licensee in one copy, and in case, if he fails to appear, the License shall be kept with the Commission's appropriate Department, until appearance of the Licensee.

4.3. Along with the License the Applicant shall be provided with the conditions of the Licensed activity implementation, set forth by the Commission, as well as the contract of the corresponding activity, registered with the Commission. The License shall be considered effective from the moment of registration of the corresponding activity contract with the Commission.

4.4. In such cases, when the parties, by a preliminary agreement, anticipate a longer period for the electric energy export, but the sale and purchase contract is signed for a shorter period, then the Commission, on the grounds of the preliminary agreement of the parties, can establish a longer period for the License, endorsing in a License a provision, stating that it shall be considered effective in case of existence of a contract, registered by the Commission.

- 4.5 The receipt of the License issuance with the Applicant's signature shall be kept with the Commission. (Appendix 1).
- 4.6 In cases of suspension of the licensed activity by the Licensee, or depriving him from the License, the File shall be kept with the Commission in the established procedure.
- 4.7 After adopting a resolution on rejection of the Application, within a 10-day period, the copy of the resolution shall be sent to the Applicant, stating the reasons for rejection.
- 4.8 In case of infringement of the License provisions, the Commission, in compliance with the established procedures shall apply penalties provided for by Article 42 of the RoA "Energy Law".
- 4.9 In case of necessity to make amendments in the License provisions, the Commission and the Licensee shall be guided by Article 30 of the RoA "Energy Law", and the corresponding legal acts, adopted by the Commission.
- 4.10 The Commission shall maintain a Registration Log of all Licenses and the Licenses issued to Licensees.
- 4.11 The resolutions of the Commission on licensing process must be accessible for review by any interested party, provided that they do not contain any confidential official, or commercial information, as required by the RoA Legislation.

## **5. EXTENTION OF LICENSE EFFECTIVE PERIOD AND RECEIPT OF THE LICENSE COPY IN CASE OF LICENSE LOSS**

- 5.1. In the event of a necessity to extend the effective period of the License, the Licensee shall be obliged to apply to the Commission at least 15 days prior to the expiration date, specifying the requested time period.
- 5.2. The application should contain the document certifying payment of the state duty, the certificate on the amendments to the Licensee's by-laws made by the authorized government body that registers legal entities, and certificate on it, as well as appropriate documents justifying the necessity of extension (import or export contracts, etc).
- 5.3. The Application of the Licensee shall be filed with the Commission. The corresponding Department of the Commission shall review the completeness of the Application and accuracy and correspondence of the included documents with the requirements of Item 5.2 of the present Procedure.

- 5.4. In case of non compliance with the requirements of Item 5.2 of the present Procedure further review of the Application shall be terminated, on which the Commission shall inform in writing to the Licensee, not later than 7 days after receiving the Application.
- 5.5. After taking into consideration the Commission's claims, the Licensee, in compliance with the procedure set forth by Item 5.2 of the present Procedure, can re-apply to the Commission, not later than 5 days prior to expiration date of the formerly issued License.
- 5.6. After submission of the Application within a time period set forth by Item 5.1 and/or 5.5 of the present Procedure, up to the expiration date of the License, the Commission shall adopt a resolution.
- 5.7. The Commission has the right to request from the Applicant additional information and documents, about the necessity of which shall inform the Applicant in writing.
- 5.8. An application for License extension can be rejected if:
- a) the documents presented by the Licensee are incomplete, inaccurate or forged. On the basis of incomplete documentation, the License extension shall be rejected if within 7 days of due notification by the Commission, starting from the next day of sending such notification, the Licensee fails to present the required documents specified in item 5.2 of these Procedures;
  - b) the presented documents do not comply with the requirements of these Procedures and the RoA Legislation;
  - c) the Applicant has been deprived of the right to engage in the requested type of activity according to the law or his by-laws;
  - d) after the acquisition of the License, and during the following period, there have been changes in the terms of licensing ;
  - e) the applicant submitted his Application later than the dates set forth in Item 5.1 and/or 5.5 of the present Procedure, or after expiration date of the former License.
- 5.9. If the Application on License extension is submitted during the period of License suspension, then the issue of extending that License shall be considered only after the removal of suspension.
- 5.10. In the event of the loss of the License, the Licensee shall be required to publish a notice in the printed press. 15 days after the publication, the Licensee can apply to the Commission presenting documents certifying to the payment of state duty and publication of the notice and obtain a copy of the License within 3 working days of applying.

## **6. Disputes**

Any disputes associated with the enforcement of the present Procedures shall be settled in accordance with legislatively established procedures.



**LICENSE (LICENSE CONDITIONS) RECEIPT**

**Energy Regulatory Commission of the Republic of Armenia**  
**Resolution No. \_\_\_\_\_, dated \_\_\_\_\_**

Type of the Licensed Activity \_\_\_\_\_

Date of Registration \_\_\_\_\_ 200\_

Number of Registration \_\_\_\_\_

The License has been issued to \_\_\_\_\_  
*Name, of the Licensee*

\_\_\_\_\_  
*address and the telephone number, teletype, E-mail, telex, fax numbers*

\_\_\_\_\_  
*First and last name of the person receiving the License*

\_\_\_\_\_  
*Number of the passport or another ID, and who it was issued by*

\_\_\_\_\_  
*Number and date of Authorization to receive the License*

The License was received on: \_\_\_\_\_ 200\_

\_\_\_\_\_  
*Signature of the person receiving the License*

## Appendix 2

Of the Procedures approved by:

ERC Resolution No. 24, dated April 3, 2002

**APPLICATION FORM**

This is in request of a License to engage in business activity at

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*(Geographic location, Marz)*

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*(Type pf the licensed operation, proposed effective period)*

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This is to inform that the information presented before the RoA Energy Regulatory Commission is accurate and complete. The Company has studied the implementation terms of the licensed activity and is hereby committing to act in compliance thereof.

Attached please find the following:

1. 

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*(Names of the documents), (Number of copies and pages)*
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3. 

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4. 

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5. 

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6. 

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7. 

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8. 

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9. 

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10. 

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11. 

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12. 

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*(Name of the Licensee, address, telephone and fax numbers, e-mail)*

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*(Banking information)*

Seal

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*(First and last name of director)*

*(Director's signature)*

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*(Date)*

## Appendix 3

Of the Procedures approved by the ERC Resolution No. 24, dated April 3, 2002

**LIST\* of Documents Required for Export and Import Operations in the Energy Sector**

	<div> <div>Licensed Operation Type</div> <div>Name of the Presented Document (documents)</div> </div>	NATURAL GAS IMPORT	ELECTRIC ENERGY MIPORT	NATURAL GAS EXPORT	ELECTRIC ENERGY EXPORT	NOTICE
2	2	3	4	5	6	7
3	Copies of the by-laws and state Registrar Certificate of the Licensed company	?	?	?	?	
4	Data on shareholders and their shares	?	?	?	?	
5	General financial reports of the company(in case of existence, copies of auditing conclusions of the company during the recent year and inspections, performed by other bodies)	?	?	?	?	
6	Electric energy purchase preliminary contract (agreement) or memorandum of intentions on purchase,	-	-	-	?	The document is not required if the exporter exports electric energy of own production or imported by him

	or final purchase contract* with an Entity possessing the right to sell electric energy in the RoA Energy Sector, which will be considered effective from the moment of issuance of an export License					
7	Natural gas sale preliminary contract (agreement) or memorandum of intentions on sale, or final purchase contract* with an Entity possessing the right to sell electric energy in the RoA Energy Sector, which will be considered effective from the moment of issuance of an export License.	-	-	?	-	The document is not required if the exporter exports natural gas imported, or extracted by him
8	Preliminary contract (agreement) with foreign exporter on import, or memorandum of intentions on import, or final import contract* which will be considered effective from the moment of issuance of and export License.	?	?	-	-	.
9	Preliminary contract (agreement) with foreign	-	-	?	?	.

	exporter on export, or memorandum of intentions on export, or final export contract* which will be considered effective from the moment of issuance of an export License					
10	The agreement of the foreign exporter on natural gas export (if the exported gas is not extracted in the Republic of Armenia)	-	-	?	-	.
11	Conclusion of the system operator on the possibilities of implementation of the proposed export and import modes	?	?	?	?	.
12	Financial guarantees, according to the procedure set forth by the Commission	?	?	?	?	No guarantees (including financial) are required from the exporters, according to the procedure set forth by the Commission if -the exporter exports electric energy of own production or imported by him -the exporter exports natural gas imported, or extracted by him
13	Document certifying the payment of state duty	?	?	?	?	.

Notes:

? the document is required

- the document is not required

\* shall be introduced after positive resolution of the Commission on License issuance, before receiving the original copy of the License

## **OBLIGATORY CONDITIONS INCLUDED IN THE IMPORT AND EXPORT CONTRACTS**

1. Import and export contracts shall become effective from the moment of registration with the Commission, where necessarily shall be specified the following:

### Electric energy (capacity) import contract

- import time period and the amount of the imported electric energy;
- imported capacity and the utmost deviations of the schedule;
- daily time-table of the imported capacity for the whole time period of import;
- the utmost amount of the imported capacity and the permitted time period;
- system (utility) stability indicators;\*
- short circuit current greatest and least values of the foreign exporter's electricity system;\*
- cost (cost formula) of the imported electric energy (capacity);
- the proposed requirements for electric transmission lines, communication means, commercial metering devices, relay protection and automated mechanisms for implementation of import activities;
- permitted borders of frequency deviations\*
- permitted voltage deviations according to load and duration\*
- payment procedure for the imported electric energy (capacity);
- fines and penalties for infringements of contract conditions;
- dispute discussion and resolution procedure;
- communication language and communication means of the parties;



### Electric energy (capacity) export contract

- export time period and the amount of the exported electric energy;
- exported capacity and permitted deviations, time period;
- daily time-table of the exported capacity during the whole exporting time period;
- short circuit current greatest and least values of the foreign exporter's electricity system;\*
- permitted borders of frequency deviations\*
- cost (cost formula) of the imported electric energy (capacity);
- the proposed requirements for electric transmission lines, communication means, commercial metering devices, relay protection and automated mechanisms for implementation of import activities;
- payment procedure for the imported electric energy (capacity);
- fines and penalties for infringements of contract conditions;
- dispute discussion and resolution procedure;
- communication language and communication means of the parties;

### Natural gas import contract

- import time period, the amount of the imported gas, including monthly (quarterly) data;
- average daily amount of the imported gas, the greatest and least daily amounts;
- the permitted average, greatest and least pressures at the RoA State border;
- qualitative indicators of the imported gas:
  - composition;
  - permitted contents of dampness, sulfur, mechanical (solid) stuff and oxygen;
  - average, greatest and the least heat
- cost of the imported gas (cost formula);
- the proposed requirements for the commercial metering devices for the purpose of import implementation;

- the applied standards for checking qualitative data of gas;
- payment procedure for the imported gas
- fines and penalties for infringements of contract conditions;
- dispute discussion and resolution procedure;
- communication language of the parties;

#### Natural gas export contract

export time period, the amount of the exported gas, including monthly (quarterly) information;

- average daily amount of the exported gas, the greatest and the least daily amounts;
- the permitted average, the greatest and the least pressures at the RoA State border;
- qualitative indicators of the imported gas:
- cost of the imported gas (cost formula);
- the proposed requirements for the commercial metering devices for the purpose of export implementation;
- the applied standards for checking qualitative data of gas;
- payment procedure for the exported gas
- fines and penalties for infringements of contract conditions;
- dispute discussion and resolution procedure;
- communication language of the parties;

\* -the stated conditions, as well as any other technical data requested by the system operator must be included in the contract, if those conditions are not set forward by other contracts, or by normative acts to ensure parallel activities.

## Appendix 5

Of the Procedures approved by:

ERC Resolution No. 24, dated April 3, 2002

PROCEDURE  
FOR INTRODUCTION OF NECESSARY FINANCIAL GUARANTEES FOR RECEIPT OF  
IMPORT AND EXPORT LICENSEES IN THE ENERGY SECTOR

The Entity submits to the Commission financial guarantees in compliance with the present Procedure.

1. Financial guarantee is considered the recommendation produced by an Entity, any authoritative financial, or other organization, investment foundation as evidence of readiness and ability to maintain license conditions by the Entity, which has applied to the Commission to get import and export License, by which the Licensee, or the guarantor takes the responsibility, and in cases of non fulfillment, or fulfillment in non-duly manner of the License conditions by him, or by the Licensee, the established amount set by the present Procedure on the basis of the Commission's Resolution transfer to the RoA State budget, as a financial penalty.
2. The amount of a financial guarantee is considered the amount of the payment for electric energy or natural gas import and export under licensing agreement, envisaged by the RoA Law on State Duty.
3. If, during import of electric energy, or natural gas it becomes evident that their import prices and/or imported amounts are subject to variations, then the Licensee is obliged to notify about it to the Commission. In such cases the Commission has the authority to adopt an appropriate resolution, including modification of the amounts of the financial guarantees.
4. No financial guarantee is required, if the exporter exports electric energy of own production, or imported by him, or natural gas extracted or imported by him.

